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A

LETTER

TO THE

Reverend Dr. LOWTH,

PREBENDARY of DURHAM;

In Vindication of the Conduct of

The Fellows of New College in Oxford,

IN THEIR

LATE ELECTION

OF A

WARDEN of WINCHESTER.

W. O.
K

L O N D O N,

Printed for R. BALDWIN, at the *Rose* in *Pater-noster Row*.

MDCCCLVIII.

[Price One Shilling.]

[Large One Colored]

MISSOLVER

TO V D - 0 Y

WARDEN OF WINCHESTER



W A S

T I O N

The Fellow of New College in Oxford

A Collection of the Church of

Prebendary of Durham

Reverend Dr. T O W N H

TO THE

I E I T E R

A

ADVERTISEMENT.

AS the following Pages, though principally put together for the Conviction of Dr. *Lowth*, may possibly fall into the Hands of others, who may be desirous of knowing the whole Transaction, and may not have had the opportunity of being acquainted with the Circumstances and Conduct of it: I shall beg leave, previously to my Expostulation with him, to give a short state of the matter in dispute between us. This, I imagine, will be more properly introduced here, than in any direct address to Him; who must be supposed to be already well acquainted with the Customs of the Society in which he was educated, and critically versed in the Statutes of his Founder, whose Life he has lately published; and, by his Intimacy with his

Patron, much deeper, perhaps, in the secret of the late affair, than to need any Information from a Person so remote from his Lordship's acquaintance as the writer of the following Letter.

The Statute, *De electione Custodis Collegii propè Winton*, directs that, on the Decease, or Resignation, of a Warden of *Winchester*, the Fellows of that College shall, within two Days after the Vacancy is known, certify such Vacancy to the Warden and Fellows of *New College*; That such Warden and Fellows shall meet, the first Day after such Certificate received, in the Chapel, to consider of the Day of Election of a new Warden; That, within fifteen Days, after such first Meeting, they shall finally appoint, and prefix, the Day of Election, in such manner, as that ten Days Notice may be given to their absent Brethren; and, that the whole may be completed within the Month after the Vacancy so known at *Winchester*. The Qualifications of the Person to be elected, and the

Form

Form of Election, are prescribed by the Statute. If the Election be not made within the time limited, and according to the Form prescribed, the Visitor may, for that Turn, by his own Authority, appoint a Warden, so it be done within fifteen Days after the Devolution. But, if the Election be statutable, and the Visitor should then arbitrarily refuse to confirm it within five Days after the Presentation, the Warden elect is, by the Statute, deem'd to be *ipso facto* Warden, and to be accordingly sworn in, and take the Office upon him, without farther Ceremony.

The Warden is to be elected, either from among the Fellows of *New College* or from those of *Winchester*, or such as have been Fellows of either College, & *licitâ de causâ et honestâ recesserunt*, i. e. *have left their FELLOWSHIP upon some just and honest occasion. Recedere a societate Collegii*, i. e. *a statu et conditione socii*, is, in a statutable sense, *recedere a Collegio*. Thus has it been invariably understood

understood for above three Centuries; and, according to this Sense, the Warden of *New College* hath ever been looked upon to be as eligible to the Headship of *Winton*, as any other Person.

But the Visitor, upon a late Presentation, was pleased to reject Dr. *Purnell*, under a new discovered Interpretation, *that he was not eligible by the Statute.* Upon this Point his Lordship argued thus; The Warden is to be elected as before specified; But Dr. *Purnell* is not a Fellow of *New College*, neither is he a Fellow of *Winchester*, nor can he be said to have left the College, so long as he continues within it's Walls and presides over it; and, therefore, is not eligible to the Headship of *Winton*. Upon this new Construction, without ever previously acquainting the Society with it, he claims a Devolution, sets aside Dr. *Purnell*, and, by his own Authority, substitutes Mr. *Golding* in his room.

This

This Decifion Dr. *Lowth*, in his Dedication * of his *Life of WILLIAM OF WYKEHAM*, to the Bishop of *Winchester*, hath been pleased to compliment as *wholly difinterested*, and *perfectly upright*. On what Principles he hath done fo the Author of the following Address thinks proper to enquire; and, as the Doctor hath assured his Reader, that *he hath been careful to affirm nothing pofitively without fufficient warrant* †, it is to be expected that his Reafons and Authorities for this avowed Approbation of the Bishop's Conduct will, in juftice to the Society of *New College*, be fubmitted to the Judgment of the Public.

* Pag. iv.

† Pref. pag. xii.

the Jargon of the Clinic.

Society of Men College, in 1891, and in 1892, for this purpose. A portion of the list of names is given in the margin, and the names of the men who have been elected to the office of President of the Society are given in the margin. The names of the men who have been elected to the office of President of the Society are given in the margin. The names of the men who have been elected to the office of President of the Society are given in the margin.

TO THE

Reverend Dr. LOWTH,

PREBENDARY of DURHAM.

REV. SIR,

THE Reputation of Societies, instituted for the Purposes of Religion and Learning, when attack'd by such Persons as might rather be expected to appear among the foremost in defending them, is a sufficient Call for Complaint and Remonstrance from those who yet retain some Sense of the Obligations they lie under to the Source of their Education and Maintenance. From a Motive of this sort you are address'd in the following pages, by one who is equally indebted with yourself to the two sister Societies of *Winton* and *New College*; and whose Concern in the present Case, for the Character of the latter of these, will not suffer him to overlook the most distant

B

Hint

Hint of Reproach and Accusation, which he apprehends has been thrown upon it.

It is indeed to be lamented that a Work, like that of *The Life of WILLIAM OF WYKEHAM*, should make it's Entrance into the World, attended with any Circumstance that can give Disgust to the Members of either of his Colleges. Performances of this Kind are generally intended as compliments to the Societies, whose Founders they celebrate. After shewing the Purity of the Fountain, from whence the blessings of such Foundations have been derived to Mankind, it is natural enough to take Notice how well the Purposes of them have been answered; and how clear and untainted the Stream hath flowed down to the present Generation. Instead of this, you have been pleased, Sir, to represent the present Members of the Society of *New College*, as making so ill a Return to the Tenderness of an indulgent Parent, that it required, *the Interposition of Authority to correct them*; and, notwithstanding the hard measure they have, to all Appearance, met with, you have triumphed in their Disappointments,

Disappointments, and cruelly insulted their Misfortunes; by assuring the World, that they have been favoured with *Decisions wholly disinterested, and perfectly upright*; have been treated in the Method prescribed by *their Founder, and just, in every Respect, as he would have treated them himself**.

I may venture, I suppose, without fear of Contradiction, to apply this Part of your Dedication to the History of the late Election of a Warden of *Winchester*, in the Place of *Dr. Coxed*; to the rejection of *Dr. Purnell*, and the substitution of *Mr. Golding* in the Room of him. For at no other Time hath the present Bishop of *Winchester* been known to interpose in their public Transactions, with his visitatorial Authority; and, whether the Word *disinterested* may be thought quite applicable to this Transaction or not, this, we are sure, is the only *decision* they have ever received from his Tribunal.

A Vindication of their Conduct, therefore, throughout this whole Affair, may now be

* Dedicat. P. iv.

expected from some Hand or other. I mean such a Vindication, as may prove to the World that they have acted up to the best of their Knowledge; to the best Information they could obtain from the Statutes of their Founder, and the Practice of the College in former Elections; a Practice also countenanced and authorized in a Multitude of Elections, by a Series of successive Visitors; in the latest Election 'of all by the Approbation of their present Visitor himself. To his *new* decision indeed, in the Case before us, they have submitted with all dutiful Regard and silent Resignation. It did not become them publicly to expostulate with Him, whose Reasons and Motives of Action, as they lay out of their reach, they had no Authority to summon before them, in order to their being discussed and examined. But with *Dr. Lowth* they are upon a fairer foot. As he hath been pleased to deliver his Opinion upon this subject, in so peremptory a Manner, they, or any *Wykehamist* on their behalf, may for mutual Information, enter into Expostulations with him, and reason together as Equals.

I beg

I beg, therefore to be understood to address myself to you, either as to one misinformed of the true State of the Case, and of the Method in which the Society acted at the late Election; or, as to one better informed than myself, by your Intercourse with your great Patron, of the Mistakes they have fallen into, and of the Manner in which they *ought* to have acted. In either Case, this Explanation of their Principles and Motives may turn to good Effect. If I am so happy as to convince you of the Justness and Integrity of their Conduct, they will, perhaps, regain the good Opinion of one, whom from his distinguished Character for Learning and Virtue, one would always wish to retain among their Friends and Favourers. And you, at the same Time, will receive the most pleasing Satisfaction, in being again enabled to think well of a Society, to which as well as to the University in general, you may be understood to have professed yourself bound, by the most sacred ties of Affection and Gratitude*.

* ——— Neque facile ullum unquam aut locum aut tempus alienum putabo, quo testari possim, quantum vobis
atque

If, on the other Hand, any Information you shall be pleased to impart should be of such Weight as to alter their Notions of the late Transactions between them and their Visitor, it will deserve and, I doubt not, will be received with the most grateful acknowledgment. The Fellows of *New College*, convinced with you, that they live under the Auspices of the *great Advocate of religious and civil Liberty*; and thoroughly satisfied, in their own Judgments, of the *disinterested Tenderness and perfect Uprightness* of his Proceedings; will think themselves happy, in exchanging a forced and implicit Submission, for the easy Yoke of a chearful and willing Obedience.

I shall begin, Sir, my Remonstrance to you, with observing, (what is a fair Presumption in their favour,) that the Conduct of the

atque huic Academiae debeam. Nunc certe, cum vos postremum alloquor, non possum facere, quin pro vestra perpetua erga me humanitate atque benevolentia, pro favore etiam et studio vestro, quod sæpius compertum habui, gratias quas possum maximas agam, majores etiam habiturus; meque huic Academiae sanctissimis fidei, observantiae, pietatis vinculis, magnorumque beneficiorum gratissima memoria, obstrictum esse palam profitear. *Orat. Creviana.*

Fellows

Fellows of *New College*, in the Election of *Dr. Purnell* to the Wardenship of *Winchester*, was approved of, as regular and statutable, even by Him, who hath since been the greatest Gainer by the Visitor's Disapprobation of it. That very Friend of yours himself, who now enjoys, or rather possesses, the Fruits of the late extraordinary Appointment, being previously asked his Opinion declared, *that he should look on such a Step in the Visitor as an unwarrantable Stretch of Power*, and, that *he would not accept of a Preferment from him thus circumstanced, if it should be tendered to him*. In a very few Days after indeed, by the help of a little modern Casuistry, he saw Reason to change his Mind, or at least to alter his Conduct. He then pleads for himself; — *That the Headship of Winchester College was offered to him; — that, if he should refuse it, the Bishop had others in his Eye to confer it on; — that his Lordship would, on no Account whatsoever permit Dr. Purnell to have it; and, he therefore hoped, that, without Offence to the Doctor, or the Society, for which he had all due Regard and Affection, he might be permitted to enjoy a Preferment,*

ferment, which, in a Way appointed by the Founder himself, most regularly devolved upon him.

How far this Expression, as well as the Style in general of this Apology, may be fairly suspected of Arrogance and Self-conceit, I shall not determine; but am fully persuaded, that what he is pleased to call a *regular Devolution of Preferment by the Appointment of his Founder*, will by others, and would by himself in other Circumstances, be, with better Reason, deem'd a palpable Violation of his Founder's Statutes, and a manifest Usurpation upon the Rights and Property of his Society; which he had engaged, which he had sworn to observe, support, and maintain. To urge, that if he refused the Preferment, the Bishop had others in his Eye to confer it on, can be no just Plea for his accepting it in such Circumstances; For if, (according to his own avowed Opinion,) the Visitor had no equitable Right to confer; this Gentleman could not, from any other Consideration, have a just Title to possess it under his Lordship's Appointment.

His

His best Friends and Advisers, I am confident, saw the Matter in this Light, and therefore, in answer to the Reasons he had urged for altering his Sentiments, endeavoured, by the strongest Arguments, to divert him from such a Conduct; conjured him not to sacrifice a Character, which appeared to them to be as fair a one as Man ever had, to this, or any, Temptation of Preferment, however alluring. This Method of Persuasion was certainly founded in Judgment and good Sense, and urged with Honesty and Affection; and I have Reason to think, that they expected some good Effect from it: For though they knew that Self-interest but too often carries irresistible Eloquence with it; they might fairly conclude that it would have lost great Part of its Force on one, who had previously declared himself so fixed in his Opinion and so determined in his Resolution.

But, to supply any Defect in This, a new Claim to a Devotion has been lately made out, and with great Triumph, but little Ingenuity, produced in favour of the Decision, and your Friend's Acceptance of this

C
Preferment;

Preferment; viz. That the Election of Dr. *Purnell* was not made within the Time limited by Statute; and therefore the Visitor had, in that Case, an indisputable Right of appointing a Warden, of his own Authority. But should this be true, (which is not admitted, and before I come to the Close of this Letter, it shall be shewn to be absolutely false and groundless,) it can serve only as a Fence in Law to the Possession of the Preferment, but can never be pleaded in Equity for his admission to it. Because it is notorious that he was admitted upon a former, exclusive of this second and all other Pretences whatsoever. The Gentlemen who, upon the Rejection of their Warden elect, were deputed to wait upon his Lordship with their Remonstrances, (which they did about two Days after the Tender had been made to Mr. *Golding*) have assured me, that his Lordship claimed the Devolution upon the single Circumstance of Dr. *Purnell*'s not being eligible by Statute, according to his new Interpretation of it. And, that, being asked, *Whether he had any Objection to make to the Form and Process of the Election as to other Circumstances?* — he assured them,

HE HAD NONE.

Nor

Nor was this Plea ever made use of, during these Transactions, by the present Possessor of the Wardenship of *Winchester*, in any Apology for his Conduct: So that this After-Claim can prove nothing with Respect to his Behaviour, but the shameful Prevarication of those who urge it in his Behalf, and their just Suspicion of the Weakness and Insufficiency of his other Pretences. — I need not beg Pardon, Sir, for thus introducing the Figure of your Friend. It was a sufficient Inducement to me to do it, that I might have an Opportunity of boasting, that he was once of the same Opinion, in this Affair, with the rest of the Members of *New College*; I mean when his Sentiments were *wholly disinterested*.

But the Advocates for this Measure have been forced, as is usual in such Cases, to add Falshood to their Disingenuity. For finding themselves hard pressed with an Argument, which could neither be resisted nor eluded, viz. That, whatever might be the true sense of the Statute, his Lordship having admitted Dr. *Coxed* upon it without Objection, could not, consistently with his usual Moderation

Equity, take Advantage of the Confidence thereupon reposed in his Honour and Integrity, and reject another Gentleman in the same Circumstances, without previously signifying his Resolution, with the Reasons for it, to the Society. Finding, I say, this Argument to be unanswerable, the Advocates for the Visitor's Decision have boldly asserted, That his Lordship had actually given due Notice of his Will and Pleasure, relating to this Affair, to the Fellows of *New College*, but that they, in defiance of his Order, proceeded to the Election of a new Warden in their usual Method, according to the received Sense of the Statute; and therefore, instead of being injured in their Rights and Property, by this new Appointment, they were but justly punished for their Insolence and Disobedience. This, Sir, has been as implicitly believed by some, as it hath been confidently reported by others; though there is not the least Foundation in Truth for the Assertion, or Belief.

I was myself, till very lately, a Member of *New-College*; and was so for above five and twenty Years; and, as long as I continued in that

that Situation, was, I believe, as intimately acquainted with the Concerns of it as any of my Contemporaries; and I do solemnly protest, that I never heard of any such Order, or Intjunction, or even Hint of one from Authority; or any that was in the least suspected to come from that Quarter.

The only Objections I ever saw or heard made to the Expediency or Statutableness of the Method of Election now under Consideration, were from an anonymous printed Paper addressed to the Society, Sept. 1753, which, from several Circumstances, was suspected to have been written by a Gentleman, who, about that Time, had been disappointed in his Views for his Son at *Winchester*; and who had been encouraged and assisted in this Undertaking by a Friend or two more, in that Neighbourhood; who, out of Pique to Dr. *Purnell*, and no good Affection for his Society, had concurred in this Scheme, to spirit up a Division among the Members, in order to defeat the Head of his Succession to *Winton*.

This, I say, whether Right or Wrong, was generally

generally suspected to have been the Case, at that Time. And the Suspicion was a good deal favoured by a second Paper, sent by an unknown Hand a few Weeks after; which directly charges the Author of the former with the malicious Design above mentioned. But, as both Papers were looked upon, by the Fellows, as impertinent Interpositions in an Affair, of which, (as a Matter of Conscience or Expediency) they themselves were the only proper Judges; they were both thrown aside with the Contempt that is generally due to anonymous Letters; have lain buried in Obscurity ever since, and, I suppose, would have totally been forgotten, had not the present Necessity of refuting every Objection against the Conduct of the College called loudly, and peremptorily, for the Publication of them.

How far such Papers ought to have influenced their Conduct on the late Occasion; what Respect was due to either; or which of them was to have the Preference in their Regard, may be best determined by the Contents of them.

That

That the Public, therefore, may be the better able to form a Judgment of these Particulars, faithful Copies of Both are here inserted for their perusal. On the first of them, (with the Contents of which I presume, Sir, you have long since been acquainted) I shall take the Liberty to make some few Observations: The latter I shall leave to shift for itself.

I.

“ *A serious and friendly Admonition*

“ *to the Fellows of New College*

“ *in Oxford.*

(*Post Mark Sept: 11.*)

“ GENTLEMEN,

“ **Y**OUR Custom, whenever the Headship of *Winchester* College becomes vacant, of electing your Own Warden into that Office, seems never to have been sufficiently considered.—How the Practice commenced—What Objections were first made to it—Why it was finally acquiesced in by the then Fellows, in the case of
Dr.

“ Dr. *Nicholas*, the first Warden so elected,
 “ and who died A. D. 1712, several Years
 “ after his Election, are things which No Man
 “ now remembers, tho’ it is Notorious the
 “ Precedent then set, has been by their Suc-
 “ cessors so implicitly followed, That One
 “ Warden’s succeeding the Other is become
 “ almost a Thing of Course, rather than an
 “ Election; which is perhaps the Best, if not
 “ the Only, Argument in Defence of such
 “ Practice. For it is generally admitted,
 “ when No Election is in view, that your
 “ present Custom is a flat Contradiction to the
 “ Tenor and Substance of the Statutes of both
 “ Colleges, if not a Trespas against the Let-
 “ ter of One of them in particular.

“ That your Custom is Inexpedient, and
 “ very detrimental to both Societies, will be
 “ clearly evinced by the two following Con-
 “ siderations.

“ 1. While the Warden of *New-College* de-
 “ pends so much as he does for a very bene-
 “ ficial Promotion upon a Number of Junior
 “ Fellows, many of whom are under *Four*
 “ Years,

“ *Years*, some under *Four Months* Standing, If
 “ he can hold the Reins of Government as he
 “ ought, he must have less Frailty in his
 “ Composition than falls to the Share of most
 “ other Men. Whether in fact your Discipline
 “ has ever languished on this Account, is best
 “ understood by those who have had their
 “ Education under it.

“ 2. Your Warden claims, and at the
 “ Time of Elections annually exercises, a subordinate
 “ Visitatorial Power at *Winchester College*,
 “ *lege*, when the First Article of his Enquiries
 “ prescribed by Statute is — *Super Regimine*
 “ *Custodis* — a Duty He can be but moderately
 “ qualified to discharge, who looks upon
 “ himself as Heir Apparent to All the Power
 “ and Profits a Warden of *Winton College* may
 “ happen, at any Time, or by any Means,
 “ to be possessed of. And as This Enquiry
 “ is seldom or never Effectually made, how
 “ necessary soever, All Other Enquiries are
 “ either totally neglected, or but faintly pursued;
 “ which probably would not be the
 “ Case, If the Warden of *New College* were
 “ Independent, and without any Prospect of

D

“ changing

“ changing his Situation. Nor let this be
 “ thought lightly of by those, who know the
 “ present Condition of *Winchester College*.

“ But, besides the Inexpediency and pernicious Consequences of this Practice, it is
 “ by many understood to be directly against
 “ the Statute where the Qualifications for a
 “ Warden of *Winton* are recited; as the
 “ Warden of *New-College* is neither an Actual
 “ Fellow, nor can with any Propriety be said
 “ to have *left the College*, whilst he remains
 “ Head and Governor of it.

“ An Absolute Literal Prohibition was not
 “ to be looked for in this Case, by those who
 “ know the Founder designed, and left his
 “ Warden of *New-College* as much superior to
 “ the other Warden in Revenue as in Dignity, though by some Alterations and *Managment*, it is not so at this Time.

“ But that your Present Practice is quite
 “ beside, and against, your Founders *Intention*
 “ is what, I believe, No Wiccamist ever yet
 “ denied. And He who denies the same, or
 “ Greater

“ Greater Regard, to be due to the Founders
 “ *Intention, to the whole Tenor and Substance*
 “ of his Statutes, than to the Letter of any
 “ One of them, must be a great Stranger to,
 “ or very Inattentive Reader of, the last Rubric of both Bodies of Statutes.

“ Now, if These Things are truly represented, and your Visitor should happen to see them in the same Light many others do, what should prevent his declaring any future Election Null and Void; in which Case, you know, The Nomination of a Warden for that Turn, under certain Limitations, would devolve to him. A Power I am certain You would be grieved to see him make use of, though it were done with the strictest Regard to the Honor and Interest of the Colleges, as also to the Trust reposed in Him by your Founder.

“ If what is here offered, with a very Honest, Upright Meaning, and without any other Motive, but that of an affectionate Zeal for the Credit and Wellfare of Both

“ Colleges, shall be considered as it ought,
 “ by those whom it most concerns, All Pre-
 “ judice, Partiality, and Sinister Affection
 “ being laid aside; The Editor of this little
 “ Paper will obtain the utmost of his
 “ Desire.”

II.

“ *To the Fellows of New College.*

(*Post Mark Oct^r 20.*)

“ GENTLEMEN,

“ **I**N a printed Paper, lately addressed to
 “ You, (which is the Effect of a private
 “ Quarrel, and Personal Pique,) there is a
 “ Snare laid for You, in which it is al-
 “ most an insult upon Your Understandings
 “ to imagine You will be caught—Yet par-
 “ don a few Words of Caution from a
 “ Friend, and a Man once a Member of your
 “ Society. The Writer of the ill-meant Paper
 “ abovenamed wants to have You do, what he
 “ fears (with the greatest Reason) Your Visitor
 “ will *not do*, viz. prevent Dr. P’s becoming
 “ Warden

“ Warden of *Winchester College*, should there
“ be a Vacancy of that Office.

“ Let me entreat you therefore, Gentle-
“ men, to consider attentively, what Part it
“ is likely your Visitor will act in case You
“ present Dr. P----- to him. Can you think
“ that a Man, so remarkable for the Con-
“ sistency of his Conduct as Bishop *Hoadly*,
“ will refuse to admit Dr. P. to whose
“ Admission No Objection can be made, but
“ what might have been made against that
“ of Dr. *Cox--d*, whom he received and ad-
“ mitted without Scruple? Can you suppose
“ that, after six Removals from the Head-
“ ship of *New-College* to that of *Winchester*,
“ (without the least Objection made to any
“ of them, by the former Visitors or by the
“ present) a Design to pay Dr. P. the same
“ Respect that has been paid to those his
“ Predecessors, should be declared Unstatu-
“ table by the *Bishop of Winchester*; who is
“ known to have thought otherwise, and
“ acted upon the Contrary Supposition, and
“ who, as I observed, has distinguished him-
“ self by a consistent Behaviour, even in his
“ Errors? “ But

“ But suppose, if you please, against all
“ Probability, the Visitor should not admit
“ of Dr. P. what will be the Consequence?

“ The Dr. will be where he is now;
“ and not suffer the Loss of any Thing he
“ enjoys at present; and you, after behaving
“ with Honour towards him, will be at Liberty to name another Man. For it is
“ not with any Colour of Reason to be imagined, that the *Bishop of Winchester* will immediately, upon rejecting Dr. P. name
“ a Person for the Wardenship, by his sole
“ Authority.

“ The Writer of the *Paper* himself is not,
“ you see, satisfied that your Visitor will
“ behave thus, though he endeavours to terrify you with seeming to make that
“ Supposition.

“ On the other Hand it is highly reasonable to believe, that if the Visitor refuses
“ to admit Dr. P. as an unstatutable Man,
“ he will desire you to nominate a statutable
“ One; because, to do otherwise, and to nominate

“ minate a Warden of *Winchester* by his
 “ sole Authority in such Circumstances, would
 “ have the Appearance of *****
 “ and be cried out upon by all the World
 “ as such a *** unless he had, as Your
 “ Visitor, given you Notice of your being
 “ got into an unfatutable Method of nomi-
 “ nating to the Wardenship, mentioned the
 “ Errors of his Predecessors, and his own
 “ Error in admitting Dr. *Coxed*, and warned
 “ you of the Danger of your losing the Right
 “ of Nomination, by such a Proceeding, and
 “ declared himself resolved to take Advan-
 “ tage of your Neglect of his Admonition.

“ As the *Bishop of Winchester* has not gi-
 “ ven you any such Notice or Warning, no-
 “ body, who considers his Character of Ten-
 “ derness in the Exercise of his Power, ef-
 “ pecially against Men of Principles opposite
 “ to those he embraces, can believe he will
 “ lie upon the Catch in order to treat your
 “ Society in the Manner abovementioned.

* The Asterisks in this Letter supply the Places of some
 Words, which could not, with any Decency, be transcribed
 by one, who had the least Regard for the high Character
 of the B. of W.

“ He

“ He could not stand his Ground against
 “ the current Reproaches that would be
 “ thrown out against him, by Men of all
 “ Parties, for such ***** Usage of you.
 “ And, therefore, he will not be guilty of
 “ such a *** Conduct, just at the Clofe of
 “ a long Life, in the Courfe of which he
 “ has uniformly behaved in a contrary
 “ Manner.”

I am, Gentlemen,

Yours, &c.

A. W.

The Writer of the former Paper endeavours
 to support his Objection to the Election of
 the Warden of *New College* to the Headship
 of *Winton*, by three Arguments: The two
 first of which are urged from the Inexpe-
 diency, and Detriment, of such a Choice to
 both Societies: Which, I think, are not *so*
clearly evinced from the Considerations proposed,
 as he might imagine. To suppose, as he seems
 to do, that Self-Interest is the ruling Principle
 of all human Actions; and that it is scarcely
 possible for a Man to act honestly, and con-
 scientiously, in one station, that is dependent
 for

for his Promotion to a better, is a Surmise very little to the Honour of human Nature, and not much for the Credit of him that makes it.

It must indeed be acknowledged that, in this selfish and corrupt Age, Instances to favour this Notion are but too common. It may be hoped, however, that the Degeneracy is not so universal, but that there are yet remaining many honest Men, who will dare to prefer their Duty to their Interest; who will bravely maintain the Integrity of their Characters, under greater Temptations than can be supposed, even in the Case before us.

For my own part, I can see no Reason why a Governour, circumstanced as the War-den of *New College* is, may not, without any heroic Degree of Virtue, *bold the Reins of Government as he ought*: Nay, if he has any Concern to maintain his Reputation, or even secure his Interest, I cannot see how, consistent with good Policy, (exclusive of a good Conscience) he can well do otherwise. For

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it is founded on Reason, and confirmed by Experience, that the Governour who conducts himself by wise and prudent Rules, and a constant Pursuit of just and upright Measures; who forms his Scheme of Government with Judgment and Discretion, and maintains it with Dignity and Impartiality, can scarce ever fail of gaining the Esteem and Affection of those, over whom he presides; and, consequently, of securing the Favour of those on whom he depends. Whilst, by a contrary Conduct, especially on a Motive so mean as is here suggested, he must be sure to incur the hatred and Reproach of the Wise, and the Contempt and Scorn, even of the most inconsiderate Part of his Society; who, if ever they prefer him, under this Character, must be supposed to do it, not so much to oblige, as to get rid of him. A good Governour of a College, I believe, has been scarce ever known to suffer in his Popularity, or his Interest, by barely instituting and supporting a regular and well-concerted Discipline. Whenever the Disciplinary has suffered in these Respects, it has not been owing
 so

so much to the Discipline itself, as to Want of Temper and Judgment; or to some Defect or other in the Management of it.

But the Objector's Argument, if allowed it's full Scope, would operate much farther than he intended. For almost every Fellow in the College is dependent for his Promotion, *on a Number of his Young Fellows*, each of whom has his Vote in the Disposal of all College Preferments. It should seem therefore, by this Argument, that no one is to bear any Office, with Authority, in this Society; because he is thus dependent upon it. Whence then is the Warden to have his Coadjutors, and how is Order, Rule, and good Government, to be maintained without their Ministration? But I can see no Objection, in any of these Cases, but what lies equally against all Power and Authority that may be committed to fallible Man; namely, the Abuse of it; and therefore, the Reasoning from this Topick is too trivial and absurd to need any formal Confutation.

It has indeed been apprehended, and may

probably be allowed, by Persons who have had their Education in New College; That the Admission of young Gentlemen immediately, or after a short Probation, to their Fellowships, may make the Exertion of good Discipline more difficult, and the Success of it more precarious than in other Societies, where they are longer dependent for them. But this, if a Defect, is chargeable on the Constitution, not on the Governour. And even this Defect is, in a great Measure, balanced by the maturer Age, and proportionable Understanding, of the young Gentlemen; when they are first admitted into this Society. With this Balance, I have known good Discipline exerted with as much Prudence on the one Hand, and submitted to with as ready Obedience on the other, in This, as in any other Society whatsoever. But, *whenever the Discipline has languished*, I can but too clearly demonstrate, that it has been owing to other Causes; least of all to that here assigned by the Writer of this Paper.

2. “ Your Warden claims, and, at the
“ Time of Elections, annually exercises a sub-
“ ordinate

“ ordinate visitatorial Power at *Winchester College*; when the first Article of his Enquiries prescribed by the Statutes, is “ *super Regimine Custodis, &c.*

This is very true, but it is not the whole Truth. He claims indeed, and annually exercises, this visitatorial Power; but it is only in Conjunction with the two *Posers*, or annual Electors, from *New College*; exclusive of whom he has no such Authority. Was this Omission owing to an Ignorance of the Statute, or to a worse Cause? Certain it is, that the Omission of this Circumstance makes a wide Difference, if not a total Alteration, in the Case before us. For, however *moderately qualified the Warden, as Heir expectant may be to discharge this Duty*, the other two Electors, who have no such View, may be supposed ready to act upon more conscientious Motives: Unless it should be objected, that it is possible that they too may successively arrive to this high Office; and therefore, upon the same shameful Inducement, may be tempted to connive at the same Irregularities. But the Supposition, in both Cases, is selfish, base,

base, and ungenerous; and, I am confident, has neither Truth nor Reason for it's Foundation.

3. But, besides the Inexpediency and pernicious Consequences of this Practice, “ it is
 “ by many understood, to be directly against
 “ the Statute, where the Qualifications for a
 “ Warden of *Winchester* are recited; as the
 “ Warden of *New-College* is neither an actual
 “ Fellow, nor can, with any Propriety, be
 “ said to have *left the College*, whilst he re-
 “ mains Head and Governour of it.”

It was upon this Point, and this only, that the Visitor claimed a Devolution, and in Consequence whereof he has, by his own Authority, appointed a Warden of *Winchester*. Let us see then, whether the Words of the Statute are sufficiently clear to justify this extraordinary Proceeding thereupon; whether a Claim of such vast Consequence, could be with Reason built upon a doubtful Place of a Statute; which may be fairly capable of another Construction, and has indeed been ever understood in a quite different Sense.

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The Warden of *Winchester*, says the Statute, is to be elected *vel de Sociis de ipso nostro Collegio Oxon. seu de Sociis Presbiteris Collegii nostri prope Winton, aut de illis qui aliquando fuerunt in ipso nostro Collegio, seu Collegio prope Winton Socii, et ex Causis licitis et bonis recesserunt*. That is, in order to his being eligible to the Headship of *Winton*; he must be either a Fellow of *New-College*, or a Fellow of *Winchester*, or one that has left his Fellowship, of either College, upon some lawful and honest Occasion.

For the Word *recesserunt* in this Place, by all fair Rules of Interpretation, can respect only the Condition, and not the local Situation of the Warden; can refer only to the Recess from his Fellowship, a *Statu et Conditione Socii, a Societate Collegii*, and not from the Walls of it. Had a *Collegio* been expressed with *recesserunt*, which it is not, it could not, without straining the Sense beyond all reasonable Construction, be explained to mean any other than the Members which constitute the Corporation, or Society, of which the Warden is Head and Governour. So that, when

when a Warden leaves his Fellowship, and accepts the Headship, he may, with as much Propriety, be said to have left the College, as the Prince, when advanced from a Peerage to the supreme Authority, may be said to have left the House of Peers, though he still continues to be the Head and Governour of it. For, as soon as they commence Governours, they cease to be Peer or Fellow; and are, by their Advancement, distinct Estates from what they were in their State of Subjection; as their Condition indeed, allowing for difference of Degree, may be proved to be analogous in many other Respects. This Instance therefore, I take to be fully in Point with Regard to the Question before us.

But I shall go farther and suppose, with this Writer, that the Word *recesserunt* relates to the Situation, Walls, or Apartments of the College: Yet still it must be insisted on, that it is not a necessary statutable Qualification, for a Candidate for the Wardenship of *Winchester*, to have receded, in this Sense, from either College. The mere receding from his College can, indeed, be no Part of this Qualification.

lification. TO BE, or to HAVE BEEN, a Fellow of one or other of the Colleges, are all the primary Requisites insisted on by the Statute; but in the latter Circumstance, where the Candidate *is not* at present, but *hath been* heretofore a Fellow, there is a farther Condition annexed, (whether he is supposed to recede from his Residence there, or from his Share in the Society as a Fellow) that he shall have left the College, upon an honest Account, *ex-licitâ Causâ et bonâ fide*. The having receded, therefore, from the College, is not in either Sense, a Qualification; but must be considered rather as an Indulgence, or Ampliation of the Privilege of Election, in Favour of the Electors. They are allowed to chuse the Warden out of those *who are* at present Fellows of either College; and not only so, but from those who *have been* Fellows, on Condition they have quitted without any Blot on their Characters. And would it not be absurd to suppose, that this Indulgence should extend to the Power of electing a Person removed to any Distance from these Societies, or who hath left either of them for any Number of Years, and that *He* should be excluded

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by it, who hath only shifted his Residence from his Chambers, to the Lodgings of the Warden of *New-College*? Where, in all common Apprehension, is the Reason of the Thing? Is there any Particular Merit in being at a Distance from the College, after a Man has quitted his Fellowship? I will put the Case, for it is what hath frequently happened in *Oxford*, that a Person, after leaving his Fellowship, should, from his Affection to an academical Life, still make the College his Place of Residence, as an independent Member. Could it, in your Opinion, Sir, be objected to such an one, that he was not a statutable Candidate for the Wardenship of *Winchester*, because he had not quitted the College? Or, could it, with any Shew of Argument, be said that another, beneficed in *Devonshire*, or preferred in the Bishoprick of *Durham*, ought, merely from his being at a great Distance from the Society, to be regarded in this Competition before him.

In short; the Whole that can be made of the Word *recesserunt*, even in the Sense of our Adversaries, is no more than this: The Founder hath,

hath, by this Expression, enlarged the Choice of the Electors, and given a Privilege, even to those who have *left the College*, to become Candidates; provided they left it *on no disreputable Account*; and, therefore, *a fortiori*, those who still reside within the Walls of the College, and want not the Use of this Privilege, are still, if possible, more *immediately*, and *directly*, qualified.

I see no Room for doubting the Validity of any Thing I have said on this Head; but, if my Reasoning upon it should not be absolutely decisive, it is, at least, sufficient for my Purpose; which was to shew that, according to all the *common* Rules of arguing in such Cases, the Statute is not so clear and express in Favour of the *Detision*, as, in a Matter of so great Importance, it ought to have been; before a Visitor should have proceeded to so extraordinary a Sentence thereupon.

“ But an absolute Prohibition, in this Case,
 “ will not be looked for by those who know
 “ the Founder designed, and left his Warden
 “ of *New-College*, as much superior to the

“other Warden in Revenue as in Dignity;
 “though by some Alteration and Manage-
 “ment, he is not so at this Time.”

It is difficult to support an erroneous Opinion through a Course of Argument, without falling into some Inconsistencies. It was asserted, in the very Sentence before; that *the Practice was by many*, (among whom we may surely be allowed to rank this Writer himself,) *understood to be directly contrary to the Statute, De Electione Custodis*; and yet here it is allowed, that *there is no absolute and literal Prohibition in the Case*. If there be no Law, there can be no Transgression. Why then is the Society thus hardly treated, if they have not wilfully offended against some known Statute? Surely nothing could be more just and reasonable, than to expect, that before any Advantage could be fairly taken to deprive a College of it's best Privilege, and divest it of it's richest Property, an absolute and literal Prohibition should be produced; nay, and that the Prohibition should be so clear and explicit, and the Meaning of it so fixed and determined, that it should be hardly possible to Mistake about it.

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For the Privileges and Property of Mankind would stand upon a very precarious Foot, if they were to be tryed and determined only by Inferences from Law, without any exprefs Injunctions from it: Especially where the Judge singly is to infer, interpret, decide; and, by such his Decision, to gain the absolute Disposal of that Property, at his own Will and Pleasure. There would be more Reason, in this Case, than in that which is put by this Writer, to apprehend; that a Judge, under these Circumstances, would not always trim the Balance of Justice with such Equality and Exactness as he ought; *unless he had much less Frailty in his Composition than falls to the Share of most other Men.*

A Man so jealous of the Abuse of Power, as the Author of this Letter seems to be, would be apt to suspect, that a *neat* Preference of seven or eight hundred Pounds *per Annum*, might possibly tempt some future Visitor to deviate a little from the Rule of Equity, in Complaisance to a Party, or in favour of a Relation or a Creature; when, by a little plausible Iniquity, he could make a Merit with

with the one, and so amply provide for the other. Under this Apprehension, one could have allowed him to have exclaimed, with his usual Solemnity; — *Nor let this be thought lightly of*, by the great Guardians of our Rights and Properties; who know the unlimited Power that is claimed and sometimes exercised by the Visitors of Colleges in both Universities, without Remedy, or Appeal, from their Determinations!

It is admitted, that *the Founder designed, and left, his Warden of New College, as much superior to the other in Revenue, as in Dignity*: But the Inference drawn from this Appointment does not necessarily follow. For a Person of the Founder's Prudence and Sagacity could not but foresee, that a Warden of *New College* might have many other Reasons for his removing to *Winchester*, besides the View of encreasing his Power, or improving his Income. I knew a Gentleman, who waded his Option to a Bishoprick of more than two thousand Pounds *per Annum*, for a Prebend, and a Country Living, of half that Value: And, I doubt not, but he had sufficient Reason

Reason for so doing. All Men are not so entirely governed by Motives of Avarice and Ambition, as to exclude all others from Conscience or Convenience.

Why then might not a Warden, for divers Reasons, believe, that his Situation at *Winchester* might be more useful, and agreeable; than at *New College*? Why might he not propose more Ease and Comfort to himself, a better Capacity, or more frequent Opportunities, of doing good to others; and therefore be induced to quit one Station, though superior in Dignity and Revenue, for another, inferior in these Particulars, but balanced by Considerations of a different Kind? The Founder, undoubtedly, might have foreseen these, and other Reasons, for such a Choice: And, if he had foreseen, at the same Time, that such Removals would have been attended with such Prejudice to both Societies, as is here apprehended; he would have taken effectual Care, by some clear and express Statute, to have guarded against it. No such Statute can be produced; so that the Extraordinary Provision made for the Warden of *New-College*, superior
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to that of the other Warden, does not necessarily imply any fixed Intention in the Founder, that He should upon no Account whatsoever be eligible to the Headship of *Winton*. And yet this, perhaps, is the most plausible, if not the only Circumstance this Writer has, to support his Assertion, *That this Practice is a flat Contradiction to the Tenor and Substance of the Statutes of both Colleges; if not a Trespass against the Letter of one of them in particular.*

But, if it had been so understood, in the earlier Times of the Foundation; How came *Chaunceler*, who you know, Sir, was *utriusque Collegii Custos* *, to be deemed eligible *Anno* 1453, from the Headship of *Winchester*, to that of *New-College*? How came it to pass that several of the School-masters of *Winton*, should have been successively elected Governors of that Society: When the same Objection, had there been any Force in it, might have been made to these Elections, as to that of *Dr. Purnell*, *That they were not Fellows of New College, nor of Winchester, neither could they*, (according to the modern Interpretation,) *with any Propriety*

* See *Dr. Lowth's Pref. P. xvii.*

be said to have left the College, so long as one of them remained Head and Governor of it; and the others resided, and exercised so important an Office in it? It must be said in Answer, that the Case seems to be this; that our simple Ancestors, having Truth only for their Object, and Equity for their Rule, and no bye Ends of their own to serve by forced and unnatural Constructions of the Statute; suffered their Judgment and Practice to be governed and directed by the plain and obvious Sense of it.

Nor can it be denied, but that there have been in later Times, and still are many wise and good Men, *who have read over the last and all other Rubricks of the Statutes*, with as much Attention, Judgment, and Honesty, as the Objector or any of his Advisers; and who have judged quite otherwise in this Particular than he does of *the Substance and Tenor of them*. The Bishops, *Morley, Mew, Trelawney, Trinnell*, and *Willis*, had the same Statutes before them; had as clear Conceptions and as accurate Judgments, and were blest'd with as great Integrity, as any of their Successors will ever be able, modestly, to lay claim to. Some

fair Account, therefore, in this Case ought to be given; why the true Sense of the Statute should escape the Notice, or miss the Correction of these wise and great Men, and be reserved at last for the Discovery of this sagacious Writer, and the Correction of the pre-sent Visitor.

I have been the more full and particular in examining and discussing the Contents of this Paper, because it contains all and every Objection made by the Visitor to the Election of Dr. *Purnell*; and which his Lordship likewise was pleased to offer almost in the very Terms made use of in that Address. So that when these are fairly answered, the Controversy, I suppose, will be at an End.

For, as to that wretched Shift of the Lapse, which Dr. *Golding* and his Friends have since had Recourse to, in Aid and Support of a lame Title; I have already shewed, that it was never urged, nor, I believe, ever thought of, till after his Appointment to the Headship; and therefore, if true, is nothing at all to the Purpose for which it is produced. But, because

cause great Pains have been taken, and the most indefatigable Endeavours used, to impose upon the World in that Matter; and some Gentlemen of good Sense, and good Affection to the Society, have been deceived by them: I must beg Leave, Sir, to trouble you with a few Lines, in order to shew the extreme Weakness of this miserable Subterfuge. And here I must first recall to your Memory the Statute itself, and then inform you of the Matters of Fact, in their Order of Time.

The Statute directs, that, upon a Vacancy of the Wardenship of *Winchester*, The Sub-warden and Fellows of that College, or the major Part of them, *Custodem et Socios Collegii Oxon, infra duos Dies a Tempore Destitutionis hujusmodi Notæ continuo numerandos, de dicta Destitutione certificent*, and that the Warden and Fellows of New College, *infra unius Diei Spatium a Tempore Præmunitionis hujusmodi, simul conveniant in Capella dicti Collegii, de Die Electionis futuri Custodis Collegii prope Winton fiendæ ut convenit, tractaturi. Quem Electionis Diem, quam citius commode fieri poterit infra quindenam immediate tunc sequentem, pro Elec-*

*tione hujusmodi facienda per Consensum et Voluntatem majoris Partis ipsorum, faciant et præfigant; præstatum Terminum taliter moderando, quod infra Mensẽm Notæ Destitutionis prædictæ in Collegio prope Winton, Electionem ipsam finaliter faciant omnimodo. Then follows the Provision for giving ten Days Notice to the absent Fellows, of the Day so appointed by affixing Papers to the Chapel Door. And afterwards, the subsequent Forms of the Election are minutely set down and prescribed. And when such Election is over, the Person elected according to the statutable Forms, must be presented to the Bishop of Winchester, who is directed to confirm the Election so made *absque moræ dispendio, et sine Processu judiciario, et absque Impugnatione Electionis.* But, if within five Days, noluerit Electionem, de Persona prædicta et infra Mensẽm prædictum, factam confirmare; extunc electus hujusmodi, eo ipso præsentis Statuti vigore, in Cusiodem dicti Collegii prope Winton sit Præfectus, et pro vero Custode et perpetuo habeatur. Si vero Socii dicti Collegii infra Mensẽm prædictum non elegerint, aut præstatam Electionis Formam non observaverint, tunc omni potestate eligendi*

eligendi illa vice volumus fore privatos; et Potestatem providendi præfato Collegio prope Winton de Custode idoneo Domino Episcopo Winton, &c. concedimus per Præsentantes.

From this View of the Statute it is plain, that within two Days after the Vacancy is known at *Winchester*, the Fellows of that College must certify such Vacancy to the Warden and Fellows of *New College*.——That such Warden and Fellows must meet the next Day after such Certificate received, in their Chapel, to consider of the Day of Election.——That within Fifteen Days, after such first Meeting, they must finally appoint and prefix the Day of Election; in such Manner as that ten Days Notice may be given to their absent Brethren, and that the whole may be completed, within one Month next after the Vacancy so known at *Winchester*.——That if they elect, within one Month in due Form, the Bishop is bound to confirm their Election within five Days after the Presentation, or, (if he refuses,) it is then valid without his Confirmation. But that if they do not elect within such Month, or do not observe the due Forms of Election, the

the Bishop is then, and then only, entitled to nominate a Warden.

With Regard to the Forms of the Election, it is not pretended, but that all were religiously observed: The single Objection at first made being merely to the Qualifications of the Person elected; and this hath been sufficiently examined in the Course of the present Address. It only remains, that we consider the Force of this new rais'd, auxiliary Objection, relating to the supposed Lapse of the Statutable Time; which is now brought up, as a *Corps de Reserve*, to cover the Retreat of a baffled Argument.—Now, in this Respect, the Facts stand plainly thus.

Dr. *Coxed* died on Thursday the 26th of May, 1757: And, supposing his Death to be known the same Evening to the College at *Winchester*, the Fellows of *New College* had clearly a Power of deferring their Election, at least, till Thursday the 23d of June, (reckoning the Month allowed to be only a lunar Month;) and of Consequence, the Bishop's Right of Devolution could not commence

commence till Friday the 24th at the soonest. But the College proceeded to Election, and chose Dr. *Purnell* in due Form, on Wednesday the 15th; notified the same to the Bishop, on Saturday the 18th; and publicly presented the Doctor to his Lordship, on Monday the 20th. His Lordship was then pleas'd to refuse confirming that Election; and, moreover, to declare that the College, by such Choice, had then forfeited their Right of Election for that Turn; and that the Power of Nomination was then vested in himself alone.

From hence, Sir, it will be manifest to a Gentleman of your Penetration, how groundless the Suggestion is, that the College had exceeded the Time allowed them by their Founder's Statutes: Whereas they had indisputably a sufficient Period remaining, in which they might have corrected their supposed Error, in case, (agreeably to their Petition,) they had been permitted so to do. And, therefore, a Gentleman of your Acquaintance would do well to reflect, whether, notwithstanding his solemn Professions to the Contrary, he did not determine to accept a Nomination, (which he

he himself had declared unwarrantable) some Days before his Patron could possibly have any Right to nominate;—though perhaps the formal Appointment might be deferred, upon better Advice, till the Month was expired: Which may possibly account for a Delay, which has hitherto seem'd a Mystery. And it might not be amiss, if Dr. *Lowth*, upon this Occasion, would himself reconsider the Force of those Expressions, of being *wholly disinterested, and perfectly upright*.

But, to sum up the whole in a few Words: It is pleaded, you see, Sir, by the Gentlemen of *New College*, in Vindication of their late Proceeding, That their Election of their own Warden to the Wardenship of *Winchester*, was sufficiently warranted by their Statute, *De Electione Custodis*; the Sense of which had never, that they knew of, been controverted since the Foundation of the College;—Had been allowed in the Case of *Chaundeler* within fifty Years of the Founder's Time, and had been strengthen'd and confirm'd in several Instances by the successive Election of Schoolmasters of *Winton* to the Headship

Headship of that College. That, if any Objections were made to it in the Case of Dr. *Nicholas*, (which is a Suggestion *neither proved by any Evidence, nor favoured by any Tradition**) it might fairly be concluded, that they were answered to the Satisfaction of the Objectors; as it has since been admitted of in five Instances successively by his Lordship's Predecessors, and approved of in a Sixth by his Lordship himself.

That the received Sense of the Statute was judg'd by Men of the greatest Impartiality, and most approved Understanding, to be the most obvious, just, and natural: But, supposing there had been any thing dubious, or obscure, in it; yet, by the Opinion of the most able Lawyers †, long and uninterrupted

* Life of Wykeham, pag. 319.

† Suppose a Statute be doubtful, we are to expound the Statute as it has been expounded in all Ages.

Lord C. J. Holt.

If any doubtful Words be in a Statute, yet the constant Practice must expound it. *Mr. Just. Polesfen.*

Rights of every kind, which stand upon the Foot of Usage, gradually receive new Strength in point of Light and Evidence from the Continuance of this Usage; as it implies the tacit Consent and Approbation of every successive Age, in which the Usage hath prevailed.

H

Mr. Just. Foster.

Prescription, Usage, tacit Consent and the like, were Circumstances of themselves sufficient to determine, beyond Dispute, the Meaning of it.

But, had his Lordship been convinced upon ever so good Grounds of the Inexpediency, pernicious Tendency, and Unstatutableness of this Practice; it is not conceived how he could consistently with his usual Moderation and Equity, proceed to a new Determination of the Sense of the Statute, before a Conference with the Fellows had been proposed, their Objections heard, Counsel allowed, and legal Advice taken about it's true Extent and Meaning. Much less was it expected that he would reject their Warden elect, and appoint another by his visitatorial Authority, before, as Visitor, he had given due Notice of their being got into an unstatutable Method of electing; mentioned the Errors of his Predecessors, and his own Error in admitting Dr. *Coxed*; warned them of the Danger of losing their Right of Nomination by such a Proceeding; and declared himself resolved to take Advantage of their Neglect of his Admonition.

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They urge farther, that when his Lordship had found himself mistaken in his former Construction of the Statute, and was determined to establish a new Interpretation of it; it might reasonably be imagined that he would have thought himself in some Measure obliged, by the Ties of Honour and Conscience, by the Duty of his sacred Profession, as well as by that of his Relation to them, to use his charitable Endeavours to convince them of their Mistake, and to prevent their persisting in an Error, which, by his Lordship's Profession, had before given him much uneasy Reflection; and has since occasioned much Loss, Trouble, and Disappointment to the Society.

That they had relied entirely on his Lordship's Goodness, and the known Confidence of his Character, for such Information: But, as he had not been pleased, either by any publick Injunction or private Admonition, to signify to them the Alteration of his Sentiments in this Particular; they did, as they reasonably might, think themselves secure in his Honour and Integrity, and fully justified before God, his

Lordship, and all Mankind, in proceeding in their usual Method, according to the received Sense of the Statute,

And lastly; That as he had not thought fit previously to give his Reasons, or interpose his Authority, and yet was previously resolved to reject Dr. *Purcell*, as an unstatutable Candidate; it might reasonably have been expected from his Lordship's *paternal Tenderneſs*, that some Allowance should have been made for an Error, (supposing it to be one,) which had in some Measure been countenanced by his Lordship's Example, and was owing to their Ignorance of the Change of his Will and Pleasure; and that they might at least have been permitted to proceed to the Election of a statutable Warden, agreeably to his *new* Interpretation of the Statute.

But all these Pleas, reasonable as they have been thought to be by the impartial World, were entirely over-ruled; And his Lordship's final Resolution was; *That, whereas by a Mistake in their Proceedings, the Matter was devolved to him, he would, without giving them any farther*

farther Trouble, by his own Authority appoint a Warden of Winchester.——Which he hath accordingly done.

Whether this extraordinary Decision may appear, upon the Review of the Argument, to be so *wholly disinterested, and perfectly upright*, as you, Sir, have been pleased to represent it, is now submitted to your Reconsideration, and the Judgment of the Public. But, if the true Character of their pious Founder is to be taken from your History of him; I may venture to assert, this is not the Conduct *which he would have prescribed*, on this Occasion; nor *just in every Respect as he would have acted himself*, in the same Circumstances. And, therefore, I would recommend it to you, Sir, to prove, qualify, or retract, so peremptory an Assertion; lest you should incur the Censure which you have so freely bestowed on Archbishop Parker; *That you have not, in this Instance treated WYKEHAM with that Candor, which belongs to your own Character, and was due to WYKEHAM.**

Thus have I, with great Freedom, but still, I hope, within the Bounds of Decency and

* Life of Wykeham, pag. 339.

Respect, given you the Reasons for suspending my Assent to your Opinion: Nor am I conscious that I have offered any Thing in support of my *own*, which either Veracity or Modesty should oblige me to suppress. If then you will only be so good as to spare me in the Character of a Writer, (a Character, which I am little able to sustain, and which nothing but my Concern for the Reputation and Interest of a Society, to which I have greater Obligations than Man ever had, could ever have induced me to appear in,) I will assure you that, in all other Respects, no one shall be more open to Conviction and Reproof, than,

5 JA 59

Reverend Sir,

Your most obedient, &c.

O. W.

E R R A T A.

Pag. iv. Line 23. for *the Month* read *a Month*. P. 17.
L. 22. for *Dévolotion* r. *Dévolution*. P. 18. L. 5. for *of* r. *by*.
P. 19. L. 2. for *Transaſtions* r. *Transactions*. P. 24. L. 19.
for *by* r. *from*. P. 32. L. 13. for *former Paper* r. *former of*
theſe two Papers. P. 38. L. 11. for *Governour* r. *Governour*.

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